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20 CITY OF PASADENA

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24 UNITED STATES DISTRICT COURT  
25  
26 CENTRAL DISTRICT OF CALIFORNIA  
27  
28

16 DAISY ALVAREZ, individually and as  
17 successor in interest to Ricardo  
18 Andrade, deceased,

19 Plaintiff,

20 v.

21 CITY OF PASADENA and DOES 1-  
22 10, inclusive,

23 Defendant.

24 Case No. 2:25-cv-02490-MWF-PVC

25 **ANSWER TO PLAINTIFF'S  
26 COMPLAINT BY DEFENDANT  
27 CITY OF PASADENA; DEMAND  
28 FOR JURY TRIAL**

Judge: Michael W. Fitzgerald

29  
30 COMES NOW Defendant CITY OF PASADENA and hereby Answers the  
31 Complaint for Damages (hereinafter "Complaint") of Plaintiff DAISY ALVAREZ  
32 ("Plaintiff") in the above-entitled action, for itself and for no other parties, admit,  
33 deny, and allege as follows:

34  
35

1       1. In answering paragraphs 1 and 2 of the Complaint, this answering  
2 Defendant admits that jurisdiction and venue are proper. This answering Defendant  
3 denies all remaining allegations.

4       2. In answering paragraphs 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21,  
5 22, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 46, 47, 48,  
6 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, 69, 71, 72, 73,  
7 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 85, 86, and the prayer for relief of the  
8 Complaint, this answering Defendant denies any and all allegations of the respective  
9 paragraphs. To the extent any statement of law is made therein, this answering  
10 Defendant asserts the law speaks for itself.

11       3. In answering paragraphs 4 and 5 of the Complaint, Defendant lacks  
12 sufficient information to respond to the allegations of the paragraphs and therefore  
13 denies any and all allegations. To the extent any statement of law is made therein,  
14 Defendant asserts the law speaks for itself.

15       4. In answering paragraph 6 of the Complaint, Defendant admits that the  
16 City of Pasadena is a municipal entity organized and existing under the laws of the  
17 State of California. This answering Defendant denies all remaining allegations.

18       5. In answering paragraphs 17, 23, 31, 38, 45, 54, 64, 70, and 77 of the  
19 Complaint, this answering Defendant hereby incorporates its admissions and denials  
20 to the Complaint.

21       6. In answering paragraph 18 and 24 of the Complaint, Defendant admits  
22 that on April 13, 2024, Pasadena Police Officers contacted decedent when he was in  
23 his vehicle, a white pick up truck. Defendant admits that decedent fled in his  
24 vehicle and that the pursuit ended when decedent collided with an unoccupied  
25 vehicle parked in front of a residence. Defendant admits that decedent then ran on  
26 foot. This answering Defendant denies all remaining allegations contained therein.

27       7. In answering paragraph 19 of the Complaint, Defendant admits that  
28 Decedent died as a result of this incident. This answering Defendant denies all

1 remaining allegations.

2                   **AFFIRMATIVE DEFENSES**

3                   AS SEPARATE AND AFFIRMATIVE DEFENSES, Defendant alleges as  
4 follows:

5                   **FIRST AFFIRMATIVE DEFENSE**

6                   8.       The Complaint fails to state a claim upon which relief can be granted.  
7 The Complaint also fails to state a claim for relief against Defendant.

8                   **SECOND AFFIRMATIVE DEFENSE**

9                   9.       Defendant denies that Plaintiff or Decedent have been deprived of any  
10 rights, privileges, or immunities guaranteed by the laws of the United States or by  
11 the laws of the State of California.

12                  **THIRD AFFIRMATIVE DEFENSE**

13                  10.      At all relevant times, the Defendant acted within the scope of  
14 discretion, with due care, and good faith fulfillment of responsibilities pursuant to  
15 applicable statutes, rules and regulations, within the bounds of reason under the  
16 circumstances, and with the good faith belief that its actions comported with all  
17 applicable laws. Any individual Defendants therefore assert qualified immunity  
18 from liability.

19                  **FOURTH AFFIRMATIVE DEFENSE**

20                  11.      Defendant denies that it violated Decedent's Fourth Amendment rights,  
21 or any other federal, constitutional, or other rights.

22                  **FIFTH AFFIRMATIVE DEFENSE**

23                  12.      To the extent that any force was used against Decedent, the force used  
24 was privileged and reasonable as a matter of law.

25                  **SIXTH AFFIRMATIVE DEFENSE**

26                  13.      Decedent's own conduct estops Plaintiff from claiming the damages  
27 alleged in the Complaint.

28

## **SEVENTH AFFIRMATIVE DEFENSE**

2       14. To the extent that Plaintiff has alleged a supplemental state law cause  
3 of action, she has failed to submit timely Government Claims, as required by the  
4 California Tort Claims Act of 1963, which is codified as California Government  
5 Code § 810-998.3, which bars this Court from hearing those claims.

## **EIGHTH AFFIRMATIVE DEFENSE**

7        15. Defendant is immune from liability for its actions by the application of  
8 one or more of the immunities set forth in the California Government Code,  
9 including the immunities set forth in §§ 815.2, 818.2, 818.8, 820, 820.2, 820.4,  
10 820.6, 820.8, 821.6, 821.8, 822.2, 844, 845.6, and 845.8.

## NINTH AFFIRMATIVE DEFENSE

12        16. Plaintiff's cause of action for a Fourth Amendment violation is barred  
13 because any force used by Defendant and their employees was privileged as  
14 reasonable to defend oneself or others.

## TENTH AFFIRMATIVE DEFENSE

16        17. To the extent that Plaintiff suffered any damages, which the Answering  
17 Defendant denies, the damages were suffered in whole, or in part, by the negligence  
18 of Plaintiff or Decedent, and the damages of Plaintiff should be reduced by a  
19 proportional amount.

## **ELEVENTH AFFIRMATIVE DEFENSE**

18. The damages alleged were directly and proximately caused and  
contributed to by the negligence of other persons, and the extent of damages  
sustained, if any, should be reduced in proportion to the amount of said negligence.

## **TWELFTH AFFIRMATIVE DEFENSE**

25        19. Plaintiff's damages, if any, should be reduced because of Plaintiff's or  
26 Decedent's failure to mitigate damages, if any.

## **THIRTEENTH AFFIRMATIVE DEFENSE**

28 || 20. Punitive Damages cannot be imposed against a public entity.

1                   **FOURTEENTH AFFIRMATIVE DEFENSE**

2       21. Plaintiff's claims are barred by the failure to comply with the  
3 applicable statute of limitations.

4                   **FIFTEENTH AFFIRMATIVE DEFENSE**

5       22. Plaintiffs have failed to join necessary and/or indispensable parties.

6                   **SIXTEENTH AFFIRMATIVE DEFENSE**

7       23. At all relevant times, each Defendant acted independently and not in  
8 association or concert with or as agent or servant of any other Defendant, including  
9 any sued herein under fictitious names, or of the employees or agents of other  
10 Defendants.

11                  **SEVENTEENTH AFFIRMATIVE DEFENSE**

12       24. At the time and place of the alleged incident and for some time before  
13 then, the risks and dangers of the incident (assuming said risks and dangers existed)  
14 were fully known to and appreciated by Plaintiff and Decedent, and Plaintiff and  
15 Decedent thereby voluntarily assumed any and all risks and dangers, including the  
16 risk and danger of the alleged incident complained of in Plaintiff's Complaint.

17                  **EIGHTEENTH AFFIRMATIVE DEFENSE**

18       25. Plaintiff's claims are barred by the doctrine of unclean hands.

19                  **NINETEENTH AFFIRMATIVE DEFENSE**

20       26. Plaintiff's claims are barred by the doctrine of laches.

21                  **TWENTIETH AFFIRMATIVE DEFENSE**

22       27. Any injury or damages suffered by Plaintiff or Decedent were caused  
23 solely by reason of Decedent's wrongful acts and conduct, and not by reason of any  
24 unlawful acts or omissions of the Defendant.

25                  **TWENTY-FIRST AFFIRMATIVE DEFENSE**

26       28. Any recovery on the Plaintiffs' Complaint, or any purported claim or  
27 cause of action alleged therein, is barred in whole or in part by the Plaintiff and  
28 Decedent's own conduct which violated numerous provisions of the California

Penal Code and, as such, was negligent per se.

## **TWENTY-SECOND AFFIRMATIVE DEFENSE**

3       29. Because the Complaint is couched in conclusory terms, Defendant  
4 cannot fully anticipate all affirmative defenses that may be applicable to this action.  
5 Accordingly, the right to assert additional affirmative defenses, if and to the extent  
6 that such affirmative defenses are applicable, is hereby reserved.

8 | Dated: April 18, 2025

## BURKE, WILLIAMS & SORENSEN, LLP

By: /s/ Caylin W. Jones  
Nathan A. Oyster  
Caylin W. Jones

Attorneys for Defendant  
CITY OF PASADENA

1                   **DEMAND FOR JURY TRIAL**

2                   Defendant CITY OF PASADENA demands a trial before a jury on all issues  
3 presented by Plaintiff's Complaint triable to a jury.

4                   WHEREFORE, Defendant CITY OF PASADENA prays that:

5                   1.        Judgment be rendered in favor of Defendant CITY OF PASADENA  
6 and against Plaintiff DAISY ALVAREZ;

7                   2.        Plaintiff DAISY ALVAREZ take nothing by this action;

8                   3.        Defendant CITY OF PASADENA be awarded costs of suit incurred  
9 herein; and

10                  4.        Defendant CITY OF PASADENA be awarded such other and further  
11 relief as the Court may deem necessary and proper.

12  
13 Dated: April 18, 2025

BURKE, WILLIAMS & SORENSEN, LLP

14  
15                  By: /s/ Caylin W. Jones

16                  Nathan A. Oyster  
17                  Caylin W. Jones  
18                  Attorneys for Defendant  
19                  CITY OF PASADENA